

**U.S. DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION PROGRAMS**

MEMORANDUM OF AGREEMENT PROGRESS REPORT #3

REPORTING PERIOD MARCH 6, 2010 - JUNE 6, 2010

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STATE SUPERINTENDENT OF EDUCATION

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I. Introduction

The Office of the State Superintendent of Education (OSSE), in compliance with the Memorandum of Agreement (MOA) executed on November 16, 2009 with the Office of Special Education Programs (OSEP), hereby presents its third of six progress reports as required. In its first two reports, OSSE sought to supplement required data with detailed narrative to specifically describe steps taken and processes used to comply with required actions. Since the submission of the second progress report on April 1, 2010, OSSE received its Verification Visit Letter on May 12, 2010 and its annual Determination on June 3, 2010. Given the overlap of areas of concern in each of these reports, OSSE, with OSEP approval, is reporting required data in this MOA progress report but will provide additional detailed narrative regarding processes and progress in its corrective action plan due to OSEP on August 1, 2010 pursuant to the June 3, 2010 Determinations letter.

II. Reporting Requirements

Initial Evaluations

The data for initial evaluations follows the FFY09 Special Conditions reporting requirements and is supplemented by additional evidence standards set in the MOA.

Reporting Period	3/6/10-6/6/10
(a) The number of children who, as of the end of the previous reporting period, had been referred for, but not provided, a timely initial evaluation and placement:	384
1. Previous Report Untimely	395
2. Late Data Entry Adjustment	11
3. New Untimely	384
(b) The number of children referred for initial evaluation and placement whose initial evaluation and placement became overdue during the reporting period	174
(c) The number of children, from (a) and (b) above, who were provided initial evaluations and placements during the reporting period:	93
1. Old Late	55
2. New Late	38
(d) The number of children who had not been provided a timely initial evaluation and placement at the conclusion of the reporting period:	465

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1. Old Late	329
2. New Late (Due and held during current reporting period but held late)	136
(e) The percentage of timely initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period:	68%
1. New Due	536
2. Timely	362
(f) The average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue	39

The three benchmarks associated with initial evaluations for this progress report are outlined below, with OSSE's performance on each benchmark:

- Eighty-five percent of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.

OSSE did not meet this target benchmark, as only 68% of initial evaluations and placements provided to children with disabilities whose initial evaluation deadlines fell within the reporting period were conducted in a timely manner.

- Sixty-five percent of children (a) who as of the end of the previous reporting period had not been provided a timely initial evaluation and placement (backlog) and (b) whose initial evaluation and placement became overdue during the reporting period were provided initial evaluations and placements during the reporting period. (See section 2.A 1. (a), (b), and (c) of Enclosure E of the July 1, 2009 FFY 2009 Part B grant award letter. To calculate the percentage: (c) divided by (a) + (b) times 100).

OSSE did not meet this target benchmark, as only 17% of children (a) who as of the end of the previous reporting period had not been provided a timely initial evaluation and placement (366) and (b) whose initial evaluation and placement became overdue during the reporting period (112), were provided initial evaluations and placements during the reporting period. The calculation used to derive the percentage is: $93/(384+174) * 100$.

- The Average number of days the initial evaluations and placements that had not been provided in a timely manner were overdue decreases from the reporting period of April 19, 2009- September 3, 2009.

OSSE met this benchmark as the average number of days that initial evaluations and placements had not been timely provided for this progress reporting period is 39 days. The average number of days of delay for the reporting period of April 19, 2009-September 3, 2009 was 49 days.

Reevaluations

The data for reevaluations follows the FFY09 Special Conditions reporting requirements and is supplemented by additional evidence standards set in the MOA.

Reporting Period	3/6/10-6/6/10
(a) The number of children who, as of the end of the previous reporting period, had not been provided a timely triennial reevaluation	338
1. Previous Report Untimely	399
2. Late Data Entry or Data Correction Adjustment	61
3. New Untimely	338
(b) The number of children whose triennial reevaluation became overdue during the reporting period	314
(c) The number of children, from (a) and (b) above, who had been provided triennial reevaluations during the reporting period	244
1. Old Late	140
2. New Late	104
(d) The number of children who had not been provided a timely triennial reevaluation at the conclusion of the reporting period	408
1. Old Late	198
2. New Late	210
(e) The percentage of timely triennial reevaluations provided to children with disabilities whose reevaluation deadlines fell during the reporting period	71%
1. New Due	1076
2. Timely	762
(f) The average number of days the reevaluations that had not been provided in a timely manner were overdue	34

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The three benchmarks associated with reevaluations for this progress report are outlined here, with the OSSE's performance on each benchmark:

- Eighty-five percent of triennial evaluations provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.

OSSE did not meet this target benchmark, as only 71% of reevaluations and placements provided to children with disabilities whose reevaluation deadlines fell within the reporting period were conducted in a timely manner.

- Sixty-five percent of children (a) who as of the end of the previous reporting period had not been provided a timely triennial evaluation (backlog) and (b) whose triennial evaluation became overdue during the reporting period, were provided triennial reevaluations during the reporting period. (See section 2.A 2. (a), (b), and (c) of Enclosure E of the July 1, 2009 FFY 2009 Part B grant award letter. To calculate the percentage: (c) divided by (a) + (b) times 100).

OSSE did not meet this target benchmark, as 37% of children (a) who as of the end of the previous reporting period had not been provided a timely triennial evaluation (338) and (b) whose triennial evaluation became overdue during the reporting period (314), were provided triennial reevaluations during the reporting period. The calculation used to derive the percentage is: $244 / (338 + 314) * 100$.

- The Average number of days the reevaluations that had not been provided in a timely manner were overdue decreases from the reporting period of April 19, 2009- September 3, 2009.

OSSE met this benchmark as the average number of days that reevaluations had not been timely provided for this progress reporting period is 34 days. The average number of days of delay for the reporting period of April 19, 2009-September 3, 2009 was 66 days.

Implementation of Due Process Hearing Decisions

The data for this section of the report is generated on behalf of OSSE by the District of Columbia Public School's Office of Data and Accountability (ODA), which has been delegated the responsibility to receive and maintain the quality of data in the Blackman Jones Database, which captures the implementation of HODs for all LEAs in the District of Columbia. The District of Columbia has agreed to use the data provided by the DCPS ODA for purposes of reporting the implementation of hearing officer decisions (HODs) at the state level, as stated in previous Special Conditions reports.

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The data for implementation of due process hearing decisions follows the FFY09 Special Conditions reporting requirements and is supplemented by two additional evidence standards set in the MOA. The data as reported in previous MOA is outlined here:

- A. The number of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the time frame established by the hearing officer or by the State: 12¹
- B. The number of children whose hearing officer determinations had not been implemented within the time frame established by the hearing officer or by the State (became overdue) during the reporting period: 23
- C. The number of children from (a) and (b) above whose hearing officer determinations were implemented during the reporting period: 22
- D. The number of children whose hearing officer determinations had not been implemented in a timely manner at the conclusion of the reporting period: 11
- E. The percent of hearing officer determinations that had been implemented in a timely manner during the reporting period: 59%

In accordance with the MOA requirement for purposes of this benchmark, the data above reflects "hearing officer determinations" and does not include settlement agreements; the benchmark is also calculated on a per child basis, not per hearing officer determination, in cases where the same child has more than one hearing officer determination. A student with multiple HODs within the reporting period is only counted once. If the student has both timely and untimely/overdue HODs, he/she is only counted once as having been overdue.

The two benchmarks associated with the implementation of hearing officer decisions for this progress report are outlined here, with OSSE's performance on each benchmark:

- Seventy percent of hearing officer determinations were implemented in a timely manner during the reporting period.

OSSE did not meet this benchmark, as only 59% of hearing officer determinations were implemented in a timely manner during the reporting period.

- Ninety percent of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the required time frame (backlog) and whose hearing officer determinations had not been implemented within the required time frame during the reporting period had hearing officer determinations implemented during the reporting period. (See

¹ During this reporting period 2 of the 12 students whose hearing officer determinations were reported as untimely and unimplemented as of the end of the previous reporting period were subsequently deemed timely implemented based on new evidence submitted by the LEA.

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section 2.B.1. (a), (b) and (c) of Enclosure E of the July 1, 2009 FFY 2009 Part B grant award letter. To calculate the percentage: (c) divided by (a) + (b) times 100).

OSSE did not meet this target benchmark. Only 67% of children whose hearing officer determinations, as of the end of the previous reporting period, had not been implemented within the required time frame (10) and whose hearing officer determinations had not been implemented within the required time frame during the reporting period (23) had hearing officer determinations implemented during the reporting period. The calculation used to derive the percentage is: $22/(10+23) * 100$.

The apparent decrease in timeliness from the first MOA reporting period may indicate cause for concern. However, even though it appears the timeliness rates are trending downwards, these data do not reflect many of the important improvements currently underway in the District of Columbia.

One important trend has been the overall decline in the number of HODs issued. For example, in May 2008, 69 HODs were issued while in May 2009, only 60 HODs were issued. In the most recent full month within this reporting period, May 2010, there were only 16 HODs issued, representing an overall decrease of 75% from 2008 rates. For further comparison, the average number of HODs issued per month from July 2008 to June 2009 was 79 whereas the average number of HODs issued per month from July 2009 to May 2010 (excluding the incomplete month of June 2010) was 26. This data is significant because it indicates that far fewer children and families are requiring the use of the due process hearing system to resolve disputes. The impact of these trends is that each HOD that is overdue for implementation or has been implemented untimely has a far greater impact on timeliness rates for the reporting period.

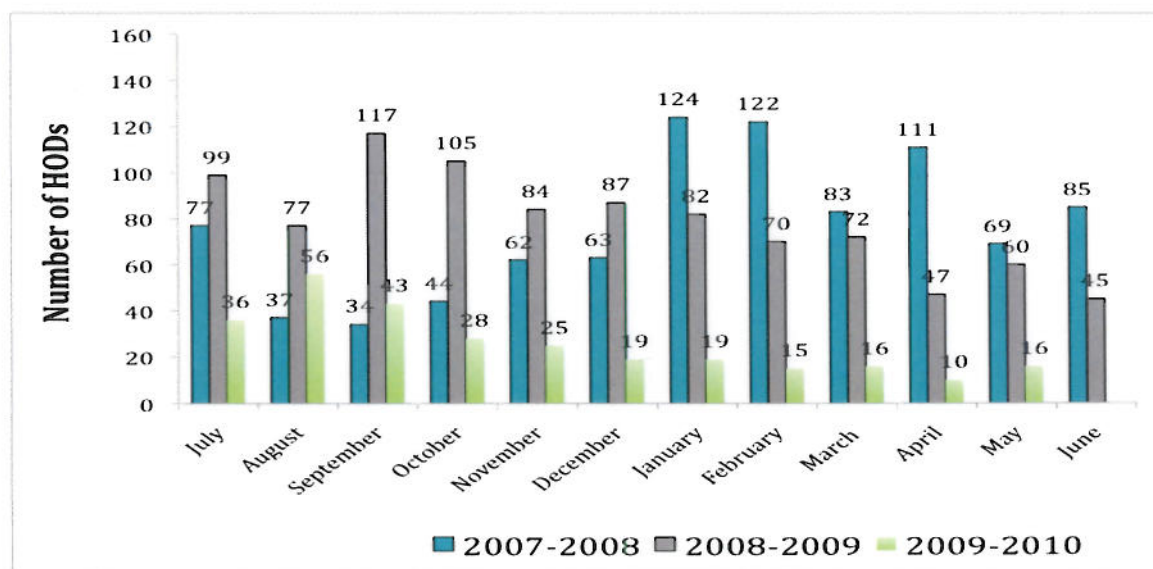


Fig. 1. Source: Blackman/Jones Database, June 15, 2010

Additionally, during this reporting period, the District undertook an initiative to analyze cases that had previously been classified as an administrative closure, often for reasons of parent delay or inaction, a change of residency or other change of status. Most commonly these HODs ordered an LEA to take action after a parent secured an independent evaluation, but the parent never secured and submitted the independent evaluation and therefore the LEA could not complete subsequent actions. The purpose of revisiting these cases, many of which were many years old, was to ensure that LEAs had followed up on all possible options to connect students to previously ordered actions and services. This initiative was made possible with the newly improved data infrastructure in the District of Columbia. In situations where the LEA was able to reach the parent, the case was reopened with a change in status from administrative closure to fully implemented, but late, after the actions ordered were completed. In the current reporting period, 15 such HODs were included as cases that became untimely implemented after successful additional outreach to parents. While we believe this initiative is resulting in improved services to students, it has had a negative impact on the overall timeliness rates for HOD implementation reflected in this report. Were those cases taken out of the calculation, HOD timeliness rates would increase to 68%.

Over the course of this school year, the District has placed a particular emphasis on strengthening resolution sessions to provide meaningful and faster relief to families to reduce the need for a fully adjudicated hearing to resolve disputes. In July 2009, there were 36 HODs issued and 14 settlement agreements ("SAs") executed. In May 2010, 16 HODs were issued and 67 settlement agreements were executed. Thus the trends related to HODs and SAs has largely been reversed. At this time, open SAs (238 as of June 15, 2010) outnumber open HODs (74 as of June 15, 2010) at a 3 to 1 ratio.

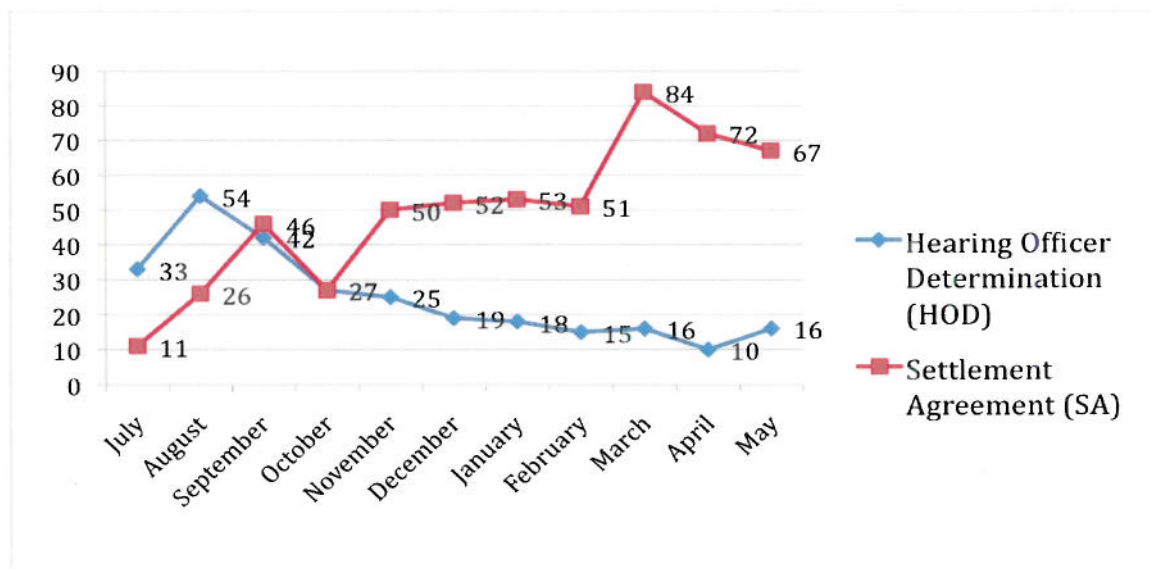


Fig. 2. Source: Blackman/Jones Database, June 15, 2010

However, these SAs cannot be considered in progress report timeliness calculations as they are in Blackman/Jones Consent Decree timeliness calculations. If SAs were included in the formula for this benchmark, timeliness would increase dramatically from 59% to 79%. Though many of the reforms in place currently appear to decrease timeliness for OSEP reporting purposes, they have been important tools for reversing deeply embedded practices and trends that negatively impact service delivery to students with disabilities. Nevertheless, the District of Columbia anticipates that it will be able to demonstrate significant progress in HOD implementation timeliness for the next reporting period.

Identification and Correction of Noncompliance and Verification of Placement in the Least Restrictive Environment (LRE)

During the reporting period, OSSE conducted several monitoring activities. First, OSSE completed 39 on-site monitoring visits including three LEAs and 36 nonpublic schools. Of these visits, none of the on-site monitoring reports became due during the reporting period. (The first on-site monitoring visit was conducted on March 18, 2010, therefore data regarding issuing the report within the three month timeline will be reported in the forth MOA report due October 1, 2010.)

Next, as reported in the second MOA report submitted to OSEP on April 1, 2010, OSSE monitored 100 IEPs for secondary transition content on March 10, 2010. OSSE notified LEAs of the findings on March 19, 2010 and informed LEAs of corrective actions required to remedy the noncompliance and that the noncompliance must be corrected as soon as possible and in no case later than one year from identification of the noncompliance. Copies of these reports were submitted with the second MOA report on April 1, 2010.

Finally, on March 19, 2010, OSSE reviewed data from the Special Education Data System (SEDS) to report to OSEP on compliance with initial evaluation and reevaluation timelines. The three month timeline for the issuance of these reports falls within the forth reporting period and will be reported in the forth MOA report due October 1, 2010.

Data for SPP/APR Indicators 9 and 10 (Disproportionate Representation Due to Inappropriate Identification) and 17 (Timeliness of Due Process Decisions)

OSSE timely reported, in its APR submitted February 1, 2010, FFY08 data for indicators nine and ten and FFY08 data from August 11, 2008 through June 20, 2009 for indicator seventeen.

Secondary Transition

OSSE review of a sample of 100 IEPs for required secondary transition content for the third reporting period was completed on June 4, 2010. DSE notified LEAs of the findings of this review on June 15, 2010. Through this process, OSSE issued 95 findings of noncompliance including 94 individual student-level findings and one LEA-level finding. The seven monitoring reports issued by OSSE are attached. These reports provide written notification to LEAs to correct identified noncompliance as soon as possible and in no case later than one year from identification. These reports also include corrective action plans for LEAs pursuant to each identified area of noncompliance.

OSSE did not meet target benchmark of 80% of IEPs reviewed containing required secondary transition content. Six percent of IEPs reviewed included the required secondary transition content. While OSSE continued to be significantly below the benchmark, OSSE believes that the 6% progress in compliance shows an upward trend in the knowledge and implementation of secondary transition requirements.

III. Certification

This report reflects OSSE's good faith efforts in reporting accurate and reliable data to the extent possible and was reviewed by several members of the OSSE to ensure a full and comprehensive submission.

The District of Columbia Assistant Superintendent of Special Education, Tameria Lewis, hereby certifies that this report is complete and appropriate for submission to the Office of Special Education Programs.